

UTILITIES DIVISION[199]

Adopted and Filed

Pursuant to Iowa Code sections 17A.4, 17A.7, and 476.1 and 2009 Iowa Acts, House File 810 [now Iowa Code Supplement section 476.48], the Utilities Board (Board) gives notice that on July 7, 2010, the Board issued an order in Docket No. RMU-2009-0010, In re: Small Wind Innovation Zones, “Order Adopting Rules.” The Board is adopting amendments to 199 IAC 15.19(476C) and new rule 199 IAC 15.22(476). The adopted amendments and new rule address small wind innovation zones, which are the subject of Iowa Code Supplement section 476.48.

In 2009, the General Assembly enacted 2009 Iowa Acts, House File 810 [Iowa Code Supplement section 476.48], which directs the Board to establish and administer a small wind innovation zone program. The statute provides that the program is “to facilitate and expedite interconnection of small wind energy systems with electric utilities” within areas designated as small wind innovation zones.

To be designated as a small wind innovation zone, an area must be “a political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the model ordinance” (Iowa Code Supplement section 476.48(1)“c”).

The model ordinance referred to in the statute was jointly developed by the Iowa League of Cities, the Iowa State Association of Counties, the Iowa Environmental Council, the Iowa Wind Energy Association, and representatives from the utility industry, and is posted on the Web sites of the Iowa League of Cities and the Iowa State Association of Counties. The statute does not describe the content of the model ordinance but states that a local government adopting the ordinance “shall establish an expedited approval process with regard to small wind energy systems in compliance with the ordinance” (Iowa Code Supplement section 476.48(3)).

In addition to adopting the model ordinance, an area seeking to be designated as a small wind innovation zone must also be served by an electric utility that “has agreed to utilize the model interconnection agreement to contract with the small wind energy system owners who agree to its terms” (Iowa Code Supplement section 476.48(2)“b”).

The model interconnection agreement referred to in the statute was the subject of a separate Board rule-making docket, Docket No. RMU-2009-0008, “Electric Interconnection of Distributed Generation Facilities,” which was published in the Iowa Administrative Bulletin on October 7, 2009, as **ARC 8201B**. The model interconnection rules adopted in that docket are mandatory for rate-regulated electric utilities and voluntary for utilities that are not rate-regulated by the Board.

The adopted rules for implementing 2009 Iowa Acts, House File 810, include new rule 199 IAC 15.22(476), “Small wind innovation zones,” and changes to 199 IAC 15.19(476C), “Certification of eligibility for wind energy and renewable energy tax credits under Iowa Code chapter 476C.”

Notice of Intended Action in Docket No. RMU-2009-0010 was published in IAB Vol. XXXII, No. 12 (12/02/2009), p. 1460, as **ARC 8335B**. Written comments were received from Interstate Power and Light Company, MidAmerican Energy Company, the Iowa Association of Electric Cooperatives (IAEC), and the Consumer Advocate Division of the Department of Justice. An oral presentation was held on January 11, 2010, and additional written comments were received after the presentation.

Several changes have been made to the proposed amendments published under Notice of Intended Action. The most significant are as follows:

In response to the IAEC’s comments, the definition of “model interconnection agreement” in 199 IAC 15.22(1) has been simplified to reflect the adoption of the model ordinance in March 2010 and the Board’s adoption of the final interconnection rules on May 26, 2010, in Docket No. RPU-2009-0008. Because both the model ordinance and interconnection rules have been adopted, there is no reason to delay adopting the small wind innovation rules. The Board has also amended the definition of “small wind energy system” to clarify, consistent with the statute, that if a non-rate-regulated electric utility has

not adopted the interconnection rules, a small wind owner served by the utility will not benefit from the streamlined application process referred to in Iowa Code Supplement section 476.48(2)“a.”

Also in response to IAEC comments, the amendments have been changed to require political subdivisions to provide legal boundary descriptions when they seek small wind innovation zone status. The adopted amendments have been revised to clarify the requirements for political subdivisions that are not local governments (including a requirement to identify all applicable local governments) and to distinguish them from the requirements that apply to local governments. The adopted amendments also require electric utilities to provide certain documentation to political subdivisions, upon request, to clarify whether the utility is subject to or has agreed to use the provisions of the model interconnection agreement.

In addition, the Board has clarified 199 IAC 15.22(3) in response to the comments. Any changes the electric utility and owner agree to make to the standard interconnection agreements (if applicable to the electric utility in question) in 199—Chapter 45 only apply to those parties and do not alter the standard agreements in 199—Chapter 45. This was the intent of the proposed subrule.

The Board does not find it necessary to propose a separate waiver provision in this rule making. The Board’s general waiver provision in 199 IAC 1.3(17A,474,476,78GA,HF2206) is applicable to these amendments. Any waiver requests pursuant to these amendments should include the information listed in 199 IAC 15.22(3).

The adopted amendments have been revised from the Noticed amendments. However, the changes have been made in response to the oral and written comments and to provide clarification to the rules consistent with the statute and are within the scope of the original Notice of Intended Action. No additional notice is necessary prior to adopting these amendments.

These amendments are intended to implement Iowa Code section 476.1 and Iowa Code Supplement section 476.48.

These amendments will become effective on September 1, 2010.

The following amendments are adopted.

ITEM 1. Amend paragraph **15.19(1)“b,”** introductory paragraph, as follows:

b. Information regarding the ownership of the facility, including the legal name of each owner, information demonstrating the legal status of each owner, and the percentage of equity interest held by each owner. The “legal status of each owner” refers to either ownership of a small wind energy system operating in a small wind innovation zone as defined in Iowa Code Supplement section 476.48(1) and 199—15.22(476), or, alternatively, the ownership requirements of Iowa Code Supplement section 476C.1(6)“b,” which provides that an eligible renewable energy facility must be at least 51 percent owned by one or more or any combination of the following:

ITEM 2. Amend paragraph **15.19(1)“d”** as follows:

d. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility equal to or greater than 51 percent, a statement attesting that the owner does not have an equity interest greater than 10 percent in any other eligible renewable energy facility.

ITEM 3. Amend paragraph **15.19(1)“e”** as follows:

e. For any owner meeting the eligibility requirements of Iowa Code section 476C.1(6)“b” with an equity interest in the facility greater than 10 percent and less than 51 percent, a statement attesting that the owner does not have an equity interest equal to or greater than 51 percent in any other eligible renewable energy facility.

ITEM 4. Adopt the following **new** rule 199—15.22(476):

199—15.22(476) Small wind innovation zones.

15.22(1) Definitions. For purposes of this rule:

“*Electric utility*” means a public utility that furnishes electricity to the public for compensation.

“*Model interconnection agreement*” means the applicable standard interconnection agreement under 199—Chapter 45.

“*Model ordinance*” means the model ordinance developed pursuant to Iowa Code Supplement section 476.48(3), which when adopted will be posted on the Web sites of the Iowa League of Cities at www.iowaleague.org and the Iowa State Association of Counties at www.iowacounties.org.

“*Small wind energy system*” means a wind energy conversion system that collects and converts wind into energy to generate electricity, which has a nameplate generating capacity of 100 kilowatts or less. A small wind energy system located in a small wind innovation zone but in the exclusive service territory of an electric utility that is not subject to 199—Chapter 45 and has not adopted the standard forms, procedures, and interconnection agreements in 199—Chapter 45 is not eligible for the streamlined application process referred to in Iowa Code Supplement section 476.48(2) “a.”

“*Small wind innovation zone*” means a political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council which adopts, or is encompassed within a local government which adopts, the model ordinance.

15.22(2) Application for small wind innovation zone designation. A political subdivision of this state, including but not limited to a city, county, township, school district, community college, area education agency, institution under the control of the state board of regents, or any other local commission, association, or tribal council, may apply to the board for designation as a small wind innovation zone under Iowa Code Supplement section 476.48. The application must include the following information:

a. The name, location, description, and legal boundary of the political subdivision seeking designation as a small wind innovation zone;

b. Contact information for the applicant filing on behalf of the political subdivision, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;

c. If the political subdivision is other than a local government:

(1) Identification of the local government (or governments) that encompasses the political subdivision;

(2) Confirmation that all identified local governments have either adopted or are about to adopt the model ordinance, including copies of model ordinances adopted by the local governments, or copies of pending amendments to existing zoning ordinances intended to comply with the model ordinance; and

(3) Dates the model ordinances were adopted or anticipated dates of adoption of pending amendments to existing zoning ordinances intended to comply with the model ordinance;

d. If the political subdivision is a local government:

(1) A copy of the model ordinance adopted by the local government or copy of a pending amendment to an existing zoning ordinance intended to comply with the model ordinance; and

(2) Date the model ordinance was adopted or anticipated date of adoption of the pending amendment to an existing zoning ordinance intended to comply with the model ordinance;

e. Identification of the electric utilities that provide service within the political subdivision; and

f. Documentation from each electric utility that provides service within the political subdivision confirming that the electric utility is serving the political subdivision and that the utility is either:

(1) A utility subject to the provisions of 199—Chapter 45; or

(2) A utility not subject to the provisions of 199—Chapter 45, but which nonetheless agrees to use the standard forms, procedures, and standard interconnection agreements of 199—Chapter 45 for small wind energy systems in its service territory within the political subdivision; or

(3) A utility that is not subject to the provisions of 199—Chapter 45 and has not adopted them.

NOTE: Electric utilities shall provide political subdivisions the documentation required in paragraph 15.22(2) “f.”

15.22(3) Motion for modification of a model interconnection agreement in a small wind innovation zone. An electric utility that uses the standard interconnection agreements in 199—Chapter 45 and the owner of a small wind energy system in a small wind innovation zone may jointly seek to modify their version of the model interconnection agreement by jointly filing a motion for board approval. The motion must include the following information:

- a. The name, location, and description of the political subdivision designated as a small wind innovation zone;
- b. The interconnecting electric utility;
- c. Information regarding the owner of the small wind energy system, including legal name, address, telephone number, and, as applicable, facsimile transmission number and electronic mail address;
- d. Description of the small wind energy system, including location and nameplate generating capacity;
- e. A copy of the modified interconnection agreement clearly identifying the proposed modifications;
- f. A description of the reasons and circumstances that require the modifications; and
- g. Signed statements from the electric utility and the owner of the small wind energy system attesting that the proposed modifications to the interconnection agreement are mutually agreeable.

15.22(4) Annual reporting requirement. A current listing of small wind innovation zones shall be maintained on the board's Web site at www.state.ia.us/iub. Beginning April 1, 2011, each electric utility that has one or more small wind innovation zones in its service territory shall file an annual report for the previous calendar year listing the nameplate kW capacity of each small wind energy system that was interconnected (or previously interconnected) with the utility and produced electricity in each of the small wind innovation zones served by the utility. The information shall be provided in the following format:

Small Wind Innovation Zone	Customer Name	Nameplate kW Capacity
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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/28/10.